

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek 07/14/2003
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a revision of an information collection received on 06/09/2003.

TITLE: Northeast Region Dealer Purchase Reports

AGENCY FORM NUMBER(S): 88-30

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0229

EXPIRATION DATE: 07/31/2005

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	63,520	3,451	15
New	70,436	3,566	15
Difference	6,916	115	0
Program Change		115	0
Adjustment		0	0

TERMS OF CLEARANCE: None

OMB Authorizing Official Title

Donald R. Arbuckle Deputy Administrator, Office of
Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated 5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No 6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) (<i>if applicable</i>)	
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT
NORTHEAST REGION DEALER PURCHASE REPORTS
OMB CONTROL NO. 0648-0229**

INTRODUCTION

The New England Fishery Management Council (NEFMC) is proposing management measures to be implemented for the skate fishery to prevent overfishing and help rebuild certain stocks of skates included in the management unit. The proposed measures include changes to the reporting requirements for dealers to report purchases of skates by species rather than as unclassified skates, consistent with changes to the vessel trip reporting requirements.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

A comprehensive information system which identifies the participants and which monitors their activity levels and landings is necessary to enforce the management measures and prevent overfishing. An information system is also needed to measure the consequences of management controls. In general, information requirements for an effective monitoring and enforcement system include:

- identification of the participating vessels and operators and dealers;
- location of the fishing activity;
- activity levels; and
- catch and landings information.

Under the FMP for the skate fishery, the reporting requirements for permitted dealers will include dealer weighout purchase reports.

Dealer weighout reports

- Seafood dealers will be required to report total purchases of skate, by species, on a trip basis from each vessel.
- Reports must include market categories of skate purchased, prices paid, and total landings.
- Reports must be submitted within 16 days after the end of a reporting week.

Justification

- Dealer weighout reports are needed to monitor total landings of skate, monitor landings by market category, verify vessel landings reports, and track prices.
- These data are necessary to obtain first purchase information on landings to evaluate the biological, economic, and social implications of management measures.
- These data are crucial to assessing the future status of the skate resource and monitoring the effectiveness of management measures to control fishing mortality.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information will be used by several offices of NOAA Fisheries and the U.S. Coast Guard. Currently, dealer weighout purchase reports are required to be submitted on forms provided by the Regional Administrator on a weekly basis. These reports are used to monitor landings and compliance with regulations.

The data collected through these programs will be incorporated into the NOAA Fisheries databases. Aggregated summaries of the collected information will be used to evaluate the management program and future management proposals. The dealer reports are an essential tool for monitoring landings and sales of skate by species and market category, verifying vessel landings reports, and providing economic information vital to understanding the effects of the regulations.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Currently, dealer weighout purchase reports are required to be submitted on forms provided by the Regional Administrator on a weekly basis. One alternative that would ease the burden for responders would be to allow the submittal of data in an electronic format. Such a system would reduce the burden for the vessel operator only if he was already using such a system to track catch. The NOAA Fisheries Northeast Regional Office is currently investigating the future use of electronic reporting technologies.

The Northeast Region is also investigating the use of optical character recognition software to ease the burden of the reporting system on the government. Such a system would "read" the data directly from a form and enter it into the database, reducing the need for manual data entry. It would not, however, reduce the burden on the public.

4. Describe efforts to identify duplication.

NOAA Fisheries is aware of all related fishery management activities, and these requirements do not duplicate any in existence.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Most of the respondents qualify as small businesses. To minimize the burden on small entities, only the minimum data needed to monitor compliance with regulations are requested from all respondents.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The proposed dealer weighout purchase reports provide the only source of first purchase information by dealers and processors involved in the skate fishery. The reports provide critical information on the prices paid for skate products, the types of products being landed (by market category), and the number of dealers/processors involved in the fishery. Without this information, it will be impossible to understand and monitor the shoreside aspects of the fishery. Weekly reports are necessary to enable the NEFMC and NOAA Fisheries to have access to timely information on which to base management decisions and verify vessel landings reports.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The data collection is not consistent with OMB guidelines because respondents must submit information more often than quarterly. The necessity for the frequency and timeliness of the reports is explained in paragraph (6).

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The New England Fishery Management Council held many Council and Skate Oversight Committee meetings during 2000-2002 at which there was a public discussion of monitoring requirements. The draft FMP and DEIS, which identified the proposed permitting and reporting requirements, was made available for public review on August 30, 2002. The NEFMC held five public hearings on the proposed management program between September 16 and October 1, 2002. The public had opportunity to provide written comments on the management program through October 15, 2002. Experience with various programs, some of which have been operating since 1981, provides continual feedback to NOAA Fisheries on issues and concerns of the applicants.

A proposed rule will also solicit public comment on these requirements.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be made to respondents.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

All data will be kept confidential as required by NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form (and without identifying the source of data, e.g., vessel name, owner, etc.).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Table 1 summarizes the burden hours, number of respondents, and total burden of the reporting requirements for the Skate FMP. The burden hours are based on the number of participants expected in the skate fishery. The analysis is complicated by the fact there is no current requirement for a skate dealer permit. The exact number of participants is not known throughout the timeframe of the fishery, but an estimate is generated based on those dealers with a history of reporting purchases of skates or skate parts.

In order to verify landings reported by vessels, track prices, and market categories of the skates being landed, seafood dealers receiving skate will be required to report on a weekly basis all skate received, by species. The number of dealers expected to participate in the skate fishery is 133, based on the number of dealers currently participating. These dealers will be required to report on a weekly basis, for a total of 6,916 dealer weighout reports per year.

The change to dealer reporting system required under the Skate FMP is not a change to the frequency of reporting, nor is it expected to change the number of respondents (all dealers that will be subject to the new requirements are assumed to be already reporting under another Federal permit with mandatory reporting requirements). Each report is expected to take an additional 1 minute to complete, including time to read the species identification key and enter the appropriate code on the form.

Burden hour estimates include assume that respondents already collect basic catch and effort information as a normal part of their business process. The burden hour estimates and costs for the dealer weighout reports are summarized in Table 1.

13. Provide an estimate of the total annual cost burden to the respondents or recordkeepers resulting from the collection.

Because skate dealers are expected to be already complying with a reporting requirement, there will be no additional material cost associated with mailing the reports.

14. Provide estimates of annualized cost to the Federal government.

Costs associated with processing additional dealer weighout information are not expected to result from the submission of reports by up to 133 skate dealers. The breakdown of reports on skate purchases by species would reflect only a negligible increase in information to be processed. These costs are summarized in Table 1.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

These is a new requirement and therefore a program change.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Results from this collection may be used in scientific, management, technical or general informational publications such as Fisheries of the United States, which follows prescribed statistical tabulations and summary table formats. Data are available to the general public on request in summary form only. Data are available to NEFMC and NOAA Fisheries employees in detailed form on a need-to-know basis only.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

N/A.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods are employed in the information collection procedures; the requirements are mandatory for participants in the skate fishery.

Burden and Cost Estimates for the Public and the Government

Table 1: Dealer Reporting Requirements (skate dealers only)								
Requirement	Number of Entities	Items per Entity	Total Number of Items	Response Time (minutes)¹	Total Burden (hours)	Material Costs	Cost to Public (1)	Cost to Government (2)
Dealer Weighout Purchase Reports	133	52	6,916	1	115.3	\$0.00	\$1,729	N/A
Total	133		6,916		115.3	\$0.00	\$1,729	N/A

(1) Calculated by considering only the additional burden hour costs (assumed to be \$15 per hour).

(2) The increase in costs to the government to process additional weighout reports and the additional information included in the weighout reports is considered negligible relative to the existing budget for processing weighout reports in the Northeast Region.

¹ Dealers will be required to report on a weekly basis, for a total of 6,916 dealer weighout reports per year. Each report is expected to take one additional minute.

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION



NOAA FORM 88-30

OMB Number 0648-0229

Expires

PURCHASES FROM FISHING VESSELS

(NORTHEAST)

NOTE: Individual reports are confidential. Only summary data are released.

The National Marine Fisheries Service requires this information for the conservation and management of marine fishery resources in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. The data reported will be used to develop, implement, and monitor fishery management strategies and for a variety of other uses. Submission is mandatory for those persons falling under the requirements of 50 CFR 648.7 (a). All data submitted will be handled as Confidential material in accordance with NOAA Administrative Orders. Public reporting burden for the survey is estimated to average 2 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS, One Blackburn Drive, Gloucester, MA 01930.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

NOAA FORM 88-30 NORTHERN SPECIES LIST		U.S. DEPARTMENT OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION PURCHASES FROM FISHING VESSELS (NORTHEAST)										FORM APPROVED: OMB. NO. 0648-0229 EXPIRES: 7/31/05													
DEALER NAME AND ADDRESS		DEALER NO.		DID NOT		PURCHASE ANY FISH OR SHELLFISH				DATE OF PURCHASE															
				FROM		TO		DATE		DATE		MO / DAY / YR													
SIGNATURE		NAME OF VESSEL				OFFICIAL NO.		S		PORT LANDED															
		DATE LANDED		GEAR		MESH		DAY A.		DAY F.		TOWS		DUR.		TRIPS		DEPTH							
		PRO		ZONE		L/I		QTR / 10 MIN.		SQ.		TL		TT		TD		NETS		POTS		HOOKS		CREW	
SPECIES AND GRADE		CODE	POUNDS	PRICE	DOLLARS	SPECIES AND GRADE		CODE	POUNDS	PRICE	DOLLARS														
COD	WHALE	0810				BUTTERFISH	LARGE	0510																	
	STEAKER	0816					MEDIUM	0515																	
	LARGE	0811					SMALL	0516																	
	MARKET	0813					SUPER SM	0517																	
	SCROD	0814																							
CUSK		0960				SCUP	LARGE	3290																	
HADDOCK	LARGE	1470					MEDIUM	3292																	
	SCROD	1475					SMALL	3293																	
							PINS	3294																	
RED HAKE		1520				SEA HERRING		1685																	
WHITE HAKE	LARGE	1536				ATLANTIC MACKEREL		2120																	
	SMALL	1538				MONKFISH	LARGE	0121																	
	UNC	1530					SMALL	0122																	
RED & WHITE	ROUND	1551					PEEWEE	0126																	
	DRESSED	1550					UNC	0120																	
REDFISH		2400				LIVERS	0123																		
POLLUCK	LARGE	2696				SKATE WINGS		3651																	
	MEDIUM	2693				OCEAN POUT		2500																	
	SMALL	2698				NORTHERN SHRIMP		7360																	
	UNC	2691				LOBSTER	LARGE	7274																	
WHITING	UNC	5090					SELECT	7273																	
	KING	5091					SMALL	7272																	
		5120					UNC	7270																	
WOLFISH						SEA SCALLOPS		8009																	
GRAY SOLE	LARGE	1221				SQUID	MIXED	8030																	
	MEDIUM	1224				LONGFIN (LOLIGO)		8010																	
	SMALL	1222				SHORTFIN (ILLEX)		8020																	
	PEEWEE	1225				BLK. SEA BASS	JUMBO	3352																	
	UNC	1220					LARGE	3351																	
BLACKBACK	LEMON	1201					MEDIUM	3353																	
	LARGE	1202					SMALL	3355																	
	MEDIUM	1206				UNC	3350																		
	SMALL	1203				BLUEFISH		0230																	
	PEEWEE	1207				CONCH		7750																	
YELLOWTAIL	LARGE	1231				JONAH CRAB		7110																	
	SMALL	1232				CRAB (UNC)		7130																	
	UNC	1230				DOGFISH		3501																	
DAB	LARGE	1241				HALIBUT		1590																	
	MEDIUM	1244				CONGER EEL		1160																	
	SMALL	1242				SEA URCHIN		8050																	
	UNC	1240				SHAD		3474																	
FLUKE	JUMBO	1218				TAUTOG		4380																	

Magnuson-Stevens Fishery Conservation and Management Act

Public Law 94-265

As amended through October 11, 1996

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) REQUIRED PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

- (A) present participation in the fishery,
- (B) historical fishing practices in, and dependence on, the fishery,
- (C) the economics of the fishery,
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries,
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities, and
- (F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

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(c) PROPOSED REGULATIONS.--Proposed regulations which the Council deems necessary or appropriate for the purposes of--

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.